IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3714 OF 2004
IN
CRIMINAL APPEAL NO.977 OF 2004

MANGESH @ MANGYA SAJJAN TAMBE ..Applicant
(Orig. accused)
V/s

The State of Maharashtra ..Respondent.

Ms. Shilpa Gajare with Mr. Ramesh Siroya for the applicant.
Mr. A.M. Shringarpure, APP for the respondent - State.

CORAM: V.M.KANADE,J.
DATE: 24TH SEPTEMBER, 2004

PC:.

1. Heard the learned advocate appearing on behalf of the applicant and the learned APP for the respondent - State.

2. Applicant has been convicted under section 366 of the Indian Penal Code and sentenced to suffer R.I. for 7 years. Applicant was on bail during the trial.

3. Prosecution's case is that while the girl was sleeping she was gagged and the alleged offence of rape was committed. The only evidence against the accused is in the form of test identification parade which was conducted by the Special Executive Magistrate and two panchas were examined in support of the test identification parade. The Special Executive Magistrate, unfortunately, expired before the trial.

The victim girl also expired three years before the trial commenced and, as such, her evidence is also not brought on record.

4. Under these circumstances, the applicant is entitled to be released on bail. Applicant is released on bail on the same terms and conditions as imposed by the Trial Court. Applicant to furnish fresh bond. He shall, however, report to the Goregaon Police Station twice in a month, pending the hearing and final disposal of the appeal.

5. Registry to supply authenticated copy of this order to the parties.

V.M. KANADE, J.